

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
February 22, 2005**

Place: Room 119
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Kenny, Forman, Conze

STAFF ATTENDING: Ginsberg, Keating
COURT RECORDER: Beler

The meeting was called to order at 8:00 p.m. by Mr. Damanti.

Continuation of Public Hearing regarding Proposed Amendment to the Darien Zoning Regulations, Special Permit Application #85-C, Stamford Health Systems, 85 Old King's Highway North. Proposing to amend Sections 210 and 703 of the Darien Zoning Regulations to define Medical Diagnostic Centers and to allow them by Special Permit within the DOR-1 and DOR-5 Zones, and to establish a Medical Diagnostic Center in a portion of the first floor of the existing building at 85 Old King's Highway North. The subject property is located on the south side of Old King's Highway North, approximately 600 feet northeast of its intersection with Brookside Road, and is shown on Assessor's Map #35 as Lot #38 in the DOR-5 Zone.
PUBLIC HEARING OPENED ON JANUARY 25, 2005.

Mr. Damanti explained that this is a continuation of the Public Hearing from January 25, 2005. Attorney William Hennessy was present representing Stamford Health Systems. Mr. Hennessy submitted Imaging Center Profiles, comparing the diagnostic centers in five different surrounding areas to Darien. Mr. Spain stated his appreciation to Mr. Hennessy on the submission of this document to the Commission.

Mr. Hennessy believes the text change on the DOR-1 Zone is negligible. He said that traffic was monitored on the surrounding residential neighborhoods, which averaged four to ten trips per day. Mr. Sullivan of Barkan & Mess believes that the proposal would have an imperceptible, negligible impact. There were no questions from anyone present for Mr. Sullivan regarding traffic or the submitted traffic study.

Mr. Spain asked whether there was an area that should be shielded from this diagnostic equipment that would be installed, specifically for protection against a magnetic field with regard to tenants above the floor where this equipment would be. How would this affect other tenants? Ms. Kathleen Silard, Senior Vice President of Operations for Stamford Health Systems, answered that they would have to provide shielding from radiation from this equipment to any tenants. Mr. Damanti stated that they must comply with requirements of the Building Code and the Department of Health and the Nuclear Regulatory Commission. Mr. Spain then asked whether other tenants had been given notice and told of what would be installed within this proposed diagnostic imaging facility and that he was very concerned about this particular aspect. He also wanted to know if this portion of the hearing could be kept open so that tenants have something to say for or against this proposal.

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Mr. Ginsberg replied that the public hearing should be completed within thirty-five days of its opening, which means the Commission has until March 1 to complete the hearing. Mr. Damanti stated that this was not a requirement. Mr. Hennessy then added that a notice was put in the newspapers about their new machinery, which does have built-in protection against magnetic fields. He also stated that they could supply documents, testing, and certification assuring the other tenants' safety.

Mr. Kenny then asked about Dr. Richmond's facility in Norwalk, stating that his office has all new equipment, and whether this has all been properly shielded, and that he would think that in a normal installation of this type of equipment, all safety issues would be addressed. Mr. Hennessy then referred to the documents he had distributed, stating that he could not get in touch with the Town of Milford, which has a mixed usage area, but submitted a supplemental page on that site.

Mr. Doug Milne of 100 Christie Hill Road, a realtor with Kelly Associates, then stated that he went to all scrutiny for safety support requests for the new diagnostic imaging center. He believes that the application is a perfect fit for a DOR Zone and that this center would be of great benefit to the health quality of the Darien community.

Mr. Darryl Harvey of 18 Peach Hill Road, former Chairman of the Board of Directors of Stamford Health Systems stated that he thought this new diagnostic center located in Darien was very important and critical for both Stamford Hospital and the Town of Darien. This center would be dedicated to the new radiological care for the community by having state-of-the-art diagnostic equipment, which would hopefully play a key role in preventive care also.

There being no further comments from the general public or Commission members, Mr. Kenny made a motion to close the public hearing on this matter. Mr. Conze seconded that motion. All Commission members voted in favor of that motion, and the public hearing was closed. Mr. Damanti read the next agenda item:

Continuation of Public Hearing regarding Business Site Plan #159-A, First County Bank, 1006 Boston Post Road. Proposing to raze the existing buildings and to construct a new bank building with drive-through lane and perform related site development activities. The subject property is located on the southeast side of Boston Post Road approximately 400 feet southwest of its intersection with Center Street, and is shown on Assessor's Map #72 as Lot #10, CBD Zone. *PUBLIC HEARING OPENED ON FEBRUARY 1, 2005.*

Attorney Wilder Gleason of Gleason Hill & Ambrette LLC was present representing First County Bank. Mr. Gleason stated that he still did not have the necessary variance from the ZBA, and that there were concerns that the Zoning Board of Appeals and the Fire Marshal had on the above property. He noted that the adjacent neighbor, the DCA Thrift Shop, also had concerns regarding the proposal. Mr. Damanti suggested that Mr. Gleason meet with DCA Thrift Shop representatives in the hallway an effort to address their concerns. Later in the meeting, Mr. Gleason explained that the ZBA is scheduled to continue the public hearing on this matter on March 23rd. It was noted that the next available Planning & Zoning Commission meeting after that would be April 5th. With Mr. Gleason's consent, the public hearing was continued to April 5, 2005.

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Mr. Damanti then read the next agenda item:

Business Site Plan #83-B/Special Permit, Fairfield County Bank, 714 Boston Post Road.

Proposal to raze the existing structures on the premises, construct a new bank building with associated drive-through facilities and parking, and perform related site development activities. The subject properties are located on the southeast side of Boston Post Road, approximately 550 feet northeast of its intersection with Sedgwick Avenue, and is shown on Assessor's Map #16 as Lots #101 and #103, in the DB-1 (and DBR overlay) Zone.

Attorney Casey Healy of Gregory and Adams PC, was present representing Fairfield County Bank. Mr. Healy stated that the bank had the support of the surrounding neighbors for the site plan. They have also obtained approval of the building, lighting and signage from the Architectural Review Board on September 21, 2004.

Mr. Joseph Canas, an Engineer from Tighe Bond, then explained that there are now three on-site curb cuts on the Boston Post Road. There are also six existing structures on this site, with an easement over the Junior League property. They are proposing to construct a 4,350 square foot bank building and reduce the curb cuts from three to two. Forty-four parking spaces are required and will be provided. The bank proposed to make improvements to the easement area on the Junior League property would also improve their driveway, which the Junior League had no objection to.

Mr. Kenny then asked whether the proposed sidewalk would be similar to those in downtown Darien. Mr. Canas stated that it would not. He then went on to state that new drainage systems would be installed and that any overflows would go into this new drainage system.

Mr. Spain then referred to the site plan and asked if the gray area was all asphalt and would have less drainage. Mr. Canas stated that yes, the drainage system would take care of this. Mr. Damanti asked if this would result in the net runoff being zero. Mr. Canas answered yes.

Mr. Nick Yuschak, of Environmental Design Associates (EDA) in Wilton, then spoke regarding the landscaping for this property, which would use deciduous and evergreen trees, as well as ornamental grasses and lawns. Fences would also be utilized for visual screening. Mr. Kenny had a question on the fence on the south side and east side. Mr. Yuschak stated that fence did not extend all the way up. He then went on to explain the lighting indicated on the site, which would be traditional, Nantucket-style lights which would be on timers. Mr. Kenny asked about the height of these lights. Mr. Canas replied they were eleven feet high by eight inches. He also replied that the security lighting stays on until morning.

Mr. Conze had a sight line concern with a tree on the northeast corner of the property with regard to moving into traffic. Mr. Yuschak replied that if this was a problem it would be addressed.

Mrs. Forman had a concern about the occupants of Sedgwick Village, specifically, what would they see. Mr. Yuschak replied they would see the fence and that they had discussions with the Association of this complex. He also stated that they could even put in a seven foot fence if this was requested by the complex.

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Mr. Spain wanted to know if the amount of security lighting was the industry standard, or were they exceeding the minimum standard. Mr. Yuschak replied that he really did not know the industry standards for security lighting. Mr. Spain was concerned that they were using minimum standards for lighting and wouldn't use more. Mr. Canas replied that he would look into this for Mr. Spain.

Mr. Peter Coughlan, of DCA Architects of Ridgefield, stated that they went through the details of this building with the Architectural Review Board, and that they were planning to construct a 4,350 square foot bank building, with a 2,600 square foot first floor. The neighborhood is full of historic, clapboard buildings except for the adjacent surgery center building. The attic area of the proposed building would be used for mechanical equipment usage only. The first floor would be the bank, with the basement being the employee lounge.

Mr. Damanti asked if they would have safety deposit boxes for customers. Mr. Coughlan replied that they would. Mr. Damanti then asked if the easement was in perpetuity. Mr. Canas responded that the easement was in perpetuity. Mr. Spain asked about the use of the easement for exit/entrance and whether that it could be used by everyone, including Yellow Balloon, with whom they would be sharing a driveway. He also asked if it was just one way out. Mr. Canas answered that yes, it was one way out. Mr. Damanti then asked how wide the driveway was and can you make left and right turns out of it. Mr. Canas stated that Mr. Thomas Golden, an adjacent property owner, wanted screening with shrubbery and they will provide it for him.

There was further discussion on lighting, specifically the height of the lights, twelve and fourteen feet. Mr. Ginsberg stated that even sixteen foot lighting was allowed, as long as it had shielding in back, so that light does not spill over onto adjacent properties. Mr. Canas confirmed that lighting would be shielded.

Mr. Kenny asked if it would make sense to look at the model block concept for this area relative to the proposed sidewalk. Mr. Ginsberg replied that the model block now ends toward Mansfield Avenue and is not this area. Mr. Kenny stated that it may be possible to extend the model block specifications to this 714 Boston Post Road location. Mr. Canas replied that they would use these model block specifications if the Commission wanted it that way.

Mr. John Barston, of the Sedgwick Village Association, then addressed the meeting with concerns about a six foot or seven foot fence with the bank property. He expressed the wishes of the Association to make sure there was a seven foot fence, including any extensions that may be added. The February 15, 2005 letter from Attorney Phil Toohey was referred to, and agreed upon by the bank.

Mr. Richard Sanford, the subject property owner, stated that the bank was complying with everyone concerned including the condominium owners, and that the bank has proposed screening and done work as best as possible and he endorses their plan as a good one.

There being no further questions or comments, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny, and unanimously approved by the Commission.

Mr. Damanti noted that the next item on the agenda had been postponed:

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Coastal Site Plan Review #198-A, Flood Damage Prevention Application #216-A, Land Filling & Regrading Application #133-A, Bluff Island, LLC, 23 Butler's Island Road. Proposing to demolish the existing residence and detached garage; to construct a new residence with garage and swimming pool and spa; and to perform related site development activities within regulated areas. The subject property is located on the south side of Butler's Island Road, approximately 600 feet southeast of its intersection with North Road, and is shown on Assessor's Map #67 as Lot #79 in the R-1 Zone. *POSTPONED.*

Mr. Damanti then read the next agenda item:

Proposed Modification of Special Permit Application #221-D, Cellco Partnership d/b/a Verizon Wireless, 4 Tower Drive. Proposing to install wireless telecommunications antennas on the existing concrete water tank beneath a new "cap" on the tank and to install an equipment shelter within the existing tank housing. The subject property is located on the south side of Tower Drive approximately 250 feet east of its intersection with Mansfield Avenue, and is shown on Tax Assessor's Map #1 as Lot #136 in the R-2 Zone.

Mr. Kenneth Baldwin of Cole & Robinson was present representing Verizon Wireless. He explained that the Commission approved a similar project for Verizon at this location on April 20, 2004. Mr. Baldwin opened the discussion with the existing water tank, which had antennas on it and the proposed (and Commission recently-approved) Nextel installation of a new cap on the water tank. The new cap installation will hide the antennas and equipment on the water tank. This site plan was submitted to the Commission. There will be modifications to the cap structure.

Mr. Kenny wanted to know what difference the one foot structure would have on top of the tank and putting on a flat structure versus a peaked one. Is this change in structure a necessity for a modification change? Mr. Carlo Centore explained the current structure and the proposed new structure, which would be a creation of a ring beam which had to be elevated one foot higher and that they did try to minimize the height. The proposed equipment building would be located inside the tower shell.

Mr. Damanti wanted to know if they were going over the existing peak. Mr. Centore answered that yes, they were. Mr. Spain wanted to know if it was a self-supporting structure. Mr. Centore replied that it was. Mr. Kenny wanted to know if this was needed for access for maintenance purposes. Mr. Centore replied that they can remove the antennas, and that all work was done from the outside of the structure, not the inside.

Mr. Spain asked about the construction process and its affect on the flow of work and the impact on the neighborhood while this was going on. Mr. Centore stated that the design concept has not changed and that the maintenance of this would be the same as before.

Mr. Kenny asked why they could not put the facility on the same level. Mr. Baldwin replied that coverage and capacity cannot be met at the current level. This is shown in the submitted maps. Mr. Kenny then reiterated that he still did not see why this could not be done, and that he did not like the change or the new design of the tower. Mr. Baldwin explained that there were interference issues with the recently approved Nextel antennas that also had to be considered.

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Mr. Spain then reiterated that this new structure was one foot higher and that the circular platform was one foot above the peak. Mr. Keating noted that the vertical wall on the drawing (on the side) was five feet seven inches, and on the plans it was seven feet seven inches, which was actually two feet higher. Sheet SK-1 of the plans was referred to. Mr. Centore said that this was support and stabilization of cells and antennae. Mr. Damanti then said that overall it was one foot higher. Mr. Spain then asked why the cone was being kept. Mr. Centore stated that it stabilized the cylindrical part of the tower and must be left there.

Mr. Damanti then asked if there were any further questions from Commission members or the general public. There being none, Mr. Conze made a motion to close the public hearing on this matter. Mr. Spain seconded that motion, which was unanimously approved by the Commission.

Mr. Damanti then read the next agenda item:

Subdivision Application #496-A, Coastal Site Plan Review #203, Steven & Georgina Black, 209 Long Neck Point Road. Proposing to remove existing tennis court, divide existing 2.17+/- acre parcel into two building lots, and perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road, approximately 1,525 feet south of the southerly intersection with Pear Tree Point Road, shown on Assessor's Map #61 as Lot #10 and #10-2, in the R-1 Zone.

Attorney Kathy Pasternak, of Rucci, Burnham, Carta & Edelberg, was present representing Mr. & Mrs. Black, the property owners. She explained that this property would be subdivided into two lots, with no work being proposed within 100 feet of mean high water. A final written copy of the Zoning Board of Appeals variance is not available yet. One condition is that a propane tank be put underground to allow the existing swimming pool to remain where it currently is.

In the 1970s, two lots were merged to put in the existing tennis court. The property would now be put back to how it was originally. No changes are contemplated to the rear lot (the lot with the existing Black residence) and an easement will be granted for access. There is no building planned on the new subdivision as of right now, the house shown on the plans is only conceptual. The Blacks have also contacted neighbors of the subject property.

Mr. Spain had a concern with north side corridor of property and that the easement was a burden on title. They can use this as an accessory access. If in the future, they cut off the current driveway, they can use this easement. Mr. Ginsberg mentioned that this property proposes to tie into the new sanitary sewer system on Long Neck Point Road. Ms. Pasternak confirmed that it would.

Attorney Sharon Seligman of Day Berry & Howard, addressed the Commission representing neighbors at 200 Long Neck Point Road across the street. These neighbors believe that the proposed 4,000+ square foot house construction is too big for the neighborhood. Her clients have a three bedroom, three bathroom house at 200 Long Neck Point Road, which is 2,183 square feet on 1.83 acres. Ms. Pasternak responded with sizes of other houses in the neighborhood. It was the general consensus of the Commission that when a new owner(s) purchases the property at 200 Long Neck Point Road, there would definitely be a bigger house constructed there.

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There being no other questions or comments from Commission members or the general public, Mr. Spain made a motion to close the public hearing on this matter. Mrs. Forman seconded that motion, which was unanimously approved by Commission members.

Mr. Damanti then read the next agenda item:

Subdivision Application #606, Coastal Site Plan Review #202, 98 Pear Tree Point, LLC, 98 Pear Tree Point Road. Proposing to create two building lots from the 2.849+/- acre parcel and perform related site development activities within regulated areas. The subject property is located on the east side of Pear Tree Point Road, approximately 335 feet north of its intersection with Crane Road, and is shown on Assessor's Map #60 as Lot #22, in the R-1 Zone.

Mr. Jeff McDougal of William Seymour and Associates, was present representing 98 Pear Tree Point Road LLC. The proposal is to create two new building lots on a 2.849 acre parcel of land. Mr. Beau Malpass, the property owner, stated that he is building the two houses. There was a previous first cut recently taken. The current lots are overgrown with underbrush and that he is now cleaning up the property. Mrs. Forman asked about the right-of-way on this access way and who owns it when one gets past the subject property? The answer was that each property owner has ownership and rights on each other's property on the accessway which extends to Long Neck Point Road.

Attorney Chris Krediet of Rucci Burnham Carta & Edelberg was present representing 90 Pear Tree Point Road, Pear Tree Point School. He stated that there are many children's activities in the fifteen foot strip along the northern boundary of the property where there would be no vegetation. He would like assurance from Mr. Malpass that none of this existing vegetated buffer would be removed except for dead or dying trees to keep the buffer between the subject property and that of the private school. There is also a stone wall and fence that should remain along this property line. Mr. Malpass agreed to this restriction of removing no vegetation within 15 feet of the northern property line of the lots (adjacent to the private school). He noted, however, that this 15 foot restriction should start 50 feet in from Pear Tree Point Road, so that proper sight lines for the driveways can be created and maintained. It was agreed that plantings may be added in this 15 foot area, but no live vegetation can be removed.

Mr. Kenny was concerned about the problems with noise for future lot owners near the school. Mr. Ginsberg stated that the proposed buffer may avoid some of these future noise problems. Mr. McDougal added that the buildable area was not near the school or the buffer zone. Mr. Kenny wanted to know if any open space would be maintained on this land. Mr. McDougal said that the Darien Subdivision Regulations do not require any open space as part of this subdivision, because it is only two lots, and has a limited amount of land.

Mr. Keating brought up the subject of stormwater and that the owner must maintain the proposed infiltrators. Mr. McDougal stated that there would be a rain garden to capture the runoff and cleanse the water before it got diverted into Long Island Sound. Mr. Spain asked if there would be a zero increase in runoff as a result of improvements with regard to dimensions of houses and will it have to be measured? Mr. McDougal responded that the plan will work with what is being built on the property. There is no drainage system on this part of Pear Tree Point Road.

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Mr. Malpass told the Commission that he has spoken with neighbors, the Pollocks and the Wiggins who had no problems with this plan. He added that the houses shown on the submitted plans were the actual houses and driveways to be constructed, not conceptual houses. There being no other comments or questions, Mrs. Forman made a motion to close the public hearing on this matter. Mr. Kenny seconded that motion, which was unanimously approved by the Commission.

That concluded the evening's public hearing items, and the Commission then considered General Meeting items:

GENERAL MEETING

Request per Business Site Plan #145-B/Special Permit, Thomas E. Golden, 40 Heights Road

Request for tenant, Esselen Associates, a petrochemical trading business with two employees, on the second floor of the existing building at 40 Heights Road.

Mr. Golden's February 7, 2005 letter on the above subject was referred to. Commission members agreed that this is a low impact use. Mr. Spain made a motion to approve Mr. Golden's request as submitted. Mr. Conze seconded that motion, which was unanimously approved by the Commission.

Discussion and deliberations regarding any closed public hearing matters.

The Commission very briefly discussed the closed public hearing items. Further discussion will occur at the meeting next week.

Any Other Business (Requires two-thirds vote of Commission)

There was a brief discussion on the 2005 Town Plan of Conservation & Development with regard to the Downtown Development Task Force and Main Street Task Force.

Mr. Kenny then explained some of the proposed legislation now being discussed in Hartford. He noted that some of the proposed bills may have an effect on planning in Darien. It was agreed that Mr. Ginsberg will call Representative John Ryan to voice the Commission's concerns.

There being no further business, Mr. Kenny made a motion to adjourn the meeting. Mr. Spain seconded that motion, which was unanimously approved. The meeting was then adjourned at 10:15 PM.

Respectfully Submitted,

Jeremy B. Ginsberg
Planning & Zoning Director